



Entered on Docket
March 23, 2010

A handwritten signature in cursive script, appearing to read "Linda B. Riegle".

Hon. Linda B. Riegle
United States Bankruptcy Judge

THE LAW OFFICES OF RANDOLPH H. GOLDBERG
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UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF NEVADA

In re:

**EARL FARINAS &
VERONICA FARINAS**

Debtor(s).

Case No.: BK-S-09-13601-LBR
Chapter 13
Trustee: Rick Yarnall

Date: 1/7/2010
Time: 2:30 p.m.

Amended ORDER TO VALUE COLLATERAL; ORDER TO AVOID LIEN

THIS MATTER having come before the Court for a hearing on **JANUARY 7, 2010**, on Debtor's MOTION TO VALUE COLLATERAL; MOTION TO AVOID LIEN, and based upon the papers and pleadings on file herein, and good cause appearing; the Court finds as follows:

1. The Debtor's principal residence located at **6745 COUNCIL HEIGHTS WAY, LAS VEGAS, NV 89142** (the "Subject Property") is valued at **\$232,000.00** as of the date of filing Debtor's Chapter 13 Petition.

- 1 2. The Subject Property is collateral for senior secured claim of **WELLS FARGO**
2 **HOME MORTGAGE** ("Senior Lienholder").
3

4 **[Check only one box, and fill in the blanks]**

5 ☒ Senior Lienholder has filed a Proof of Claim **(3-1)** related to such claim,
6 and such Proof of Claim claims a debt of **\$286,056.98**. Senior Lienholder's Proof of
7 Claim indicates that Senior Lienholder has assigned **WELLS FARGO BANK** to this
8 claim.
9

10 **[or]**

11 ☐ Senior Lienholder has **not** filed a Proof of Claim related to its claim, but has
12 assigned **(N/A)** to this claim. The Debtor's schedules list the amount of Senior
13 Lienholder's claims as \$.
14

- 15 3. The Subject Property is also collateral for a junior secured claim of **WELLS FARGO**
16 **BANK NV NA** ("Junior Lienholder").
17

18 **[Check only one box, and fill in the blanks]**

19 ☒ Junior Lienholder has filed a Proof of Claim **(8-1)** related to such claim, and
20 such Proof of Claim claims a debt of **\$54,905.78**. Junior Lienholder's Proof of Claim indicates that
21 Junior Lienholder has assigned **WELLS FARGO BANK, N.A.** to this claim.
22

23 **[or]**

24 ☐ Junior Lienholder has **not** filed a Proof of Claim related to its claim, but has
25 assigned to this claim. The Debtor's schedules list the amount of Junior Lienholder's
26 claims as \$.
27

- 28 4. Given the above, Junior Lienholder's interest in the Debtor's interest in the Subject

1 Property has no value.

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3 THEREFORE, IT IS HEREBY ORDERED THAT, pursuant to Zimmer v. PSB Lending
4 Corp. (In re Zimmer), 313 F. 3d 1220 (9th Cir. 2002), and 11 U.S.C. §§ 506(a) and 506(d), Junior
5 Lienholder's claim is unsecured, and shall be treated as unsecured for all purposes in this case,
6 including the manner in which such claim is treated and paid in Debtor's chapter 13 plan; and
7

8 IT IS FURTHER ORDERED THAT, should debtor receive a discharge in this case, Junior
9 Lienholder shall as soon as practicable thereafter take all necessary and appropriate steps to
10 remove its lien of record, and to ensure that Debtor's title to the Subject Property is clear of any
11 cloud on title related to Junior Lienholder's claim. This court hereby reserves jurisdiction with
12 respect to any dispute over the actions necessary to comply with this paragraph; and
13

14 IT IS FURTHER ORDERED THAT, should this case be converted to one under another
15 chapter, 11 U.S.C. § 348(f) shall govern the continued validity of this order; and
16

17 IT IS FURTHER ORDERED THAT, should this case be dismissed, 11 U.S.C. §
18 349(b)(1)-(3) shall govern the continuing validity of this order; and
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20 IT IS FURTHER ORDERED THAT nothing in this order shall be deemed to be an
21 allowance or disallowance of any claim of Senior Lienholder or Junior Lienholder, and any party
22 in interest, including the Debtor of the Trustee, may hereafter object to either claim on any ground
23 recognized by the Bankruptcy Code.
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25 DATED this 17TH day of MARCH, 2010
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9 THE LAW OFFICES OF
10 RANDOLPH H. GOLDBERG

11 By /S/ RANDOLPH GOLDBERG ESQ.
12 RANDOLPH H. GOLDBERG, ESQ.
13 4000 S. Eastern
14 Suite 200
15 Las Vegas, Nevada 89119
16 Attorney for Debtor

15

16 APPROVED AS TO FORM AND CONTENT

17

18 CHAPTER 13 TRUSTEE

19

20

21 RICK YARNALL, TRUSTEE
22 701 Bridger Avenue #820
23 Las Vegas, NV 89101

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LR 9021. ENTRY OF JUDGMENTS AND ORDERS.

(c) Certification language.

(1) Documents listed in subsection (a) above must be submitted to the court with the following certification from the submitting counsel:

In accordance with LR 9021, counsel submitting this document certifies as follows (check one):

☐ The court has waived the requirement of approval under LR 9021.

☒ This is a chapter 7 or 13 case, and either with the motion, or at the hearing, I have delivered a copy of this proposed order to all counsel who appeared at the hearing, any unrepresented parties who appeared at the hearing, and each has approved or disapproved the order, or failed to respond, as indicated below [list each party and whether the party has approved, disapproved, or failed to respond to the document]:

RICK A. YARNALL
701 BRIDGER AVE., #820
LAS VEGAS, NV 89101

☐ Approved
☐ Disapproved
☒ Failed to respond

☐ This is a chapter 9, 11, or 15 case, and I have delivered a copy of this proposed order to all counsel who appeared at the hearing, any unrepresented parties who appeared at the hearing, and each has approved or disapproved the order, or failed to respond, as indicated below [list each party and whether the party has approved, disapproved, or failed to respond to the document]:

☐ I certify that I have served a copy of this order with the motion, and no parties appeared or filed written objections.

(2) No language other than “approved” or “disapproved” may appear above opposing counsel’s signature; and

(3) Unless the court orders otherwise, “opposing counsel” means any attorney who appeared at the hearing regarding the matter that is the subject of the order or who filed objections.

(4) Variation from the certification language indicated in paragraph (c)(1) may be cause for returning the draft order unsigned by the court.

/S/MAILE HANSEN
an employee of
THE LAW OFFICES OF
RANDOLPH H. GOLDBERG, ESQ.